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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/627,909

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Robert S. Fielmann

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EXAMINER

LIEU, JULIE BICHNGOC

ART UNIT

PAPER NUMBER

2636

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/627,909

Applicant(s)

FIELMANN, ROBERT S.

Examiner

Julie Lieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/21/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, is “the motion detector device” on line 9 the same as the detector device on line 5? It lacks antecedent basis. For examining purpose, it is presumed they are the same.

In claim 4, “the audible alarm device” lacks antecedent basis.

In claim 7, it is not clear how “removal” can be done by “mounting” to the door?

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1- are rejected under 35 U.S.C. 103(a) as being unpatentable over Thacker (US Patent No. 6,359,564).

Claim 1:

Thacker discloses a device for warning a person of the presence of a door when the person is in close proximity to the door, comprising:

- a. a detector device 106, having a detection range of a few feet, for being positioned in at least close proximity to an at least substantially transparent door in a position to detect the person in close proximity to the door; and
- b. an audio alarm device 112 for providing an audible warning to the person in proximity to the door, the audible alarm device associated with the motion detector device so that the audible alarm device provides the audible warning in response to the detection of the person by the motion detector device.

The reference fails to disclose the detection range of the detector device. However, it appears that device 106 has a detection range of about 5ft. as shown the front page figure.

Additionally, the reference states the detection device is used to detect the presence of a person

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within close vicinity of the workspace. Thus, it infers that the detection range would be about in the range so that it would not detect area too far from the workspace. Therefore, it is reasonable that the detection range of detection device 106 is about 5 ft or less so that it only detects moving object within a certain predesignated space.

The reference does not disclose that the audible alarm device provides warning to warn the person of the door. Nonetheless, detector 106 is very close to the door and detect a person in vicinity of the door, the audible alarm sounds when a person is detected nearby the door; it infers that when a person hears the audible alarm, the person would know that the door is in close proximity.

Claim 2:

The detector devcie 106 in Thacker is a motion detector.

Claim 3:

The detector in Thacker comprises a body heat sensitive detector. Col. 4, line 25.

Claim 4:

The device in Thacker has a voice module to record voice messages.

Claim 5:

Thacker fails to disclose a range adjusting feature. However, it would have been to one skilled in the art to add this feature in the Thacker device because it is conventional in the art and would provide versatility of the device.

Claims 6, 8, and 9:

The detector device and the audible alarm device in Thacker are not contained within the same housing or pouch, though they both have the same housing. Nonetheless, the integration of

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parts in the same housing would not be considered an inventive step because the function of the device would not thereby be modified. It would have been obvious to one skilled in the art to use an attractive shape for the device because aesthetic is always preferred.

Claim 11:

Though not clearly discussed in Thacker about the battery, it would have been obvious to one skilled in the art to use a battery to supply power or to supply backup power to the detector device because it is conventional in the art.

Claim 12:

The audible alarm in Thacker is in connection with a controller of a computer. Thus, the reference implicitly suggests a volume adjustment because this feature is conventionally used in a computer.

Claim 13:

The alarm device in Thacker ceases after a predetermined period of time in response to detected motion by the motion detector 106 and resets itself when motion is no longer detected by the motion detector device.

Claim 14-18:

The rejection of these claims recites the discussion in the rejection of claims 1-12, except they are method claims.

Claim 19:

In Thacker, when no motion is detected and a person is absent in the workspace, the alarm is shut off and automatically resets itself to provide warning when motion is again detected. Col. 4, lines 42-53.

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Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Fufido et al., US Patent No. 6,720,874.


Zwern, US Patent No. 5,245,694.

Dorr, US Patent No. 4,779,240.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is 571-272-2978. The examiner can normally be reached on Mon-Fri 9AM-6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Julie Lieu
Primary Examiner
Art Unit 2636

Sept. 26, 04